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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Randy L. PRAKKEN et al

Art Unit: 3621

Application No: 09/754,927

Examiner: Cristina O. Sherr

Filed: January 4, 2001

For: EMBEDDED LICENSE DATA FILE DISTRIBUTION AND PROCESSING SYSTEM

TRANSMITTAL OF BRIEF ON BEHALF OF APPELLANT

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

Notice of Appeal was filed in this case on or about September 8, 2004.

Submitted herewith in triplicate is Appellant's Brief. A check in the amount of $165 for the fee under 35 CFR 1.17(c)(small entity) is enclosed.

Respectfully submitted,

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Penelope Stockwell

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REAL PARTY IN INTEREST

The real party in interest is SwiftView, Inc.

RELATED APPEALS AND INTERFERENCES

There are no related appeals or interferences.

STATUS OF CLAIMS

Claims 1-26 are pending, no claims are canceled, and claims 1-26 are appealed.

STATUS OF AMENDMENTS

No amendments have been filed subsequent to final rejection.

SUMMARY OF INVENTION

The applicant's invention as illustrated in FIG. 1 relates to a data file distribution system 10 wherein server software 32 licensed by a software manufacturer and running on a source computer 12 sends a data file 38 via a network 30 to a destination computer 14. In the example of FIG. 1, data file 38 is a print file of the type typically sent to a printer 42 to tell the printer how to print a document. Processing software 34 running on the destination computer 14 can processes print file 38 to produce a display 39 of the document

described by the print file, or can send the print file to printer 42 so that the printer can print the document.

In accordance with the invention, a license stamper 36 included in server software 32 embeds a license stamp 37 in print file 38 indicating that print file 38 was forwarded by licensed server software 32. The processing software 34 running on destination computer 14 looks for the license stamp 37 in print file 38 and processes print file 38 only if it finds the license stamp. See specification paragraphs [00018]-[00020].

The license stamp 38 need not render print file 38 inaccessible to printer 42 or other unlicensed software that may run on destination computer 14. For example, a conventional print file is a set of instructions to a printer for printing a document, and when license stamp 37 is embedded in a subroutine of print file 38 that is never called or is embedded following a main routine's END statement, printer 42 would be able to print the file correctly because it would never encounter license stamp 37. Thus, the license stamp 37 would have no effect on a printer's ability to print the document. See specification paragraphs [00028] - [00031].

Various types of information can be included in license stamp 37 such as for example a unique license number for server software 32, a user ID, server computer ID, the date the print file 38 was stamped, and document annotations. See specification paragraph [00024]. The license stamp 37 may also include option codes telling client software 34 how to process the print file. See specification paragraph [00025].

The invention is useful, for example, in the following context. A software manufacturer develops and sells licensed copies of server software 32. To encourage users to buy the server software, the software manufacturer distributes copies of the processing software 34 free to anyone who wants to receive and display documents described by the print files 38 forwarded by the server software 38. The software manufacturer wants to make sure that the free processing software 34 is useful only for processing print files 38 that were transmitted by licensed copies of the server software; however, the software manufacturer does not want server software 32 to corrupt print file 38 so as to make it inaccessible to other software or hardware in the receiving computers. See specification paragraph [00021].

The license stamping system in accordance with the invention may be used in connection with system for distributing and processing data files other than print files, such as for example MPEG, JPEG and MP3 files. See specification paragraph [00034].

ISSUES

Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,041,411A (WYATT) in view of US patent 6,263,442B1 (MUELLER).

Claims 23-26 are rejected under 35 USC 102(e) as being anticipated by WYATT.

The applicants appeal the rejection of each of claims 1-26.

GROUPING OF CLAIMS

For rejection of claims 1-22 under 35 U.S.C. 103(a):

Claims 1,9,10, 12, 20 and 21 stand as a group
Claims 2 and 13 stand as a group,
Claims 3 and 14 stand as a group,
Claims 4 and 15 stand as a group,
Claims 5 and 16 stand as a group,
Claims 6 and 17 stand as a group,
Claims 7 and 18 stand as a group,
Claims 8 and 19 stand as a group, and
Claims 11 and 22 stand as a group.

For the rejection of claims 23-26 under 35 U.S.C. 102(e):

Claims 23 and 26 stand as a group,
Claims 24 stands alone, and
Claims 25 stands alone.

ARGUMENT

Claims 1, 9, 10, 12, 20 and 21.

The applicant's method as recited in claim 1 recites including license stamping means in server software running on a server computer for embedding a license stamp in a data file sent to a destination computer, the license stamp indicating that the data file was forwarded by licensed server software. The applicant's claim 1 also recites adapting processing software running on the destination

computer so that it only processes data files containing the embedded license stamp.

WYATT teaches "locking" a data file to a particular target (destination) computer by "wrapping" it in some digital instructions that must be executed in order to access the data file. See WYATT, column 2, lines 15-20. WYATT also teaches embedding a "first digital identifier" in the wrapped file that identifies the target (destination) computer that is to have the right to access the data file. The value of the first digital identifier is based on a particular combination of attributes of the target computer. When the target computer tries to access the wrapped data file, it must first execute instructions which cause it to determine its own attributes and then generate a second digital identifier based on its attributes. The target computer is then allowed to access the data file only if the second digital identifier it generates matches the embedded first identifier. See WYATT, column 2, lines 15-34.

Thus while both the applicant and WYATT teach embedding a kind of identifier in a data file, the applicant's embedded identifier identifies the source of the data file as being licensed server software, while WYATT's embedded identifier identifies the destination of the data file as a target computer having the right to access the data file. The distinction renders claim 1 patentable over WYATT and is important because the two systems are used in different licensing contexts.

WYATT's system allows only particular software to access a particular data file only when the software is running on a licensed computer. The applicant's system allows particular software to access data files only from a licensed source but does not necessarily prevent other software from accessing those data files.

Although the Examiner has rejected claim 1 in view of the combination of WYATT and MULLER, the Examiner does not cite any teaching in MULLER as being relevant to claim 1, and no teaching in MULLER is relevant to claim 1. The Examiner cites MUELLER only as disclosing data files defining sounds or video images, and such disclosures are not relevant to claim 1 insofar as claim 1 does not recite data files defining sounds or video images.

Claims 9, 10, 12, 20 and 21 are distinguishable over the combination of WYATT and MULLER for reasons generally similar to those discussed above in connection with claim 1.

Claims 2 and 13

Claim 2 depends on claim 1 and is patentable over the combination of WYATT and MUELLER for similar reasons. Claim 2 further recites that the embedded license stamp identifies the source computer of the data file. The Examiner points to WYATT col. 5, line 58-col. 6, line 14 as disclosing a license stamp in a data file identifying a source computer of the file. However the cited section of WYATT teaches only about software allowing a user to enter information such as SKU numbers, account numbers and credit card numbers and the like into a purchase order form to identify a purchaser of a product and the product being purchased. See col. 5, line 51- 57 preceding the section of WYATT cited by the Examiner. WYATT does not provide any teaching with respect to embedding a license stamp in a data file identifying the source computer that generated the data file as recited in claim 2.

Although the Examiner has rejected claim 1 in view of the combination of WYATT and MULLER, the Examiner does not cite any teaching in MULLER as being relevant to claim 2, and no teaching in MULLER appears relevant to claim 2.

Claim 13 is distinguishable over the combination of WYATT and MULLER for reasons generally similar to those discussed above in connection with claim 2.

Claims 3 and 14

Claim 3 depends on claim 1 is patentable over the combination of WYATT and MUELLER for similar reasons. Claim 3 further recites "each data file, including its embedded license stamp, is a print file defining a document in a format suitable for directly causing a printer to print said document." Thus, a stamp is embedded in a print file to identify the source of the print file as being a licensed source, but in a way that does not interfere with the ability of a printer to print the document. WYATT teaches a system that includes an identifier with a data file (which could be a print file or any other kind of data file), but WYATT's system alters the data file by

wrapping it in a way that would make a print file accessible only to particular software running on a licensed target computer, and therefore not directly accessible to a printer. Hence, the file WYATT's system transmits is not in a format suitable for directly causing a printer to print a document described by the data file as recited in claim 3

The Examiner cites WYATT (col. 15, lines 40-60) as teaching the additional limitations of claim 3, but the cited section of WYATT simply describes a conventional computer system having a printer; it does not teach anything about embedding anything in a print file and, in fact, mentions nothing at all about print files.

Claim 14 is distinguishable over the combination of WYATT and MULLER for reasons generally similar to those discussed above in connection with claim 3.

Claims 4 and 15

Claim 4 depends on claim 3 and is patentable over the combination of WYATT and MUELLER for similar reasons. Claim 4 further recites that the "license stamping means embeds said encoded license stamp into each data file in such a way that said printer ignores the encoded license stamp when printing said document in response to said data file." The Examiner cites WYATT (col. 15, lines 40-60) as teaching these additional limitations of claim 4, but the cited section of WYATT describes only a conventional computer system having a printer; it does not teach anything about embedding a stamp in a print file so as to be ignored by a printer. It mentions nothing at all about print files.

Claim 15 is distinguishable over the combination of WYATT and MULLER for reasons generally similar to those discussed above in connection with claim 4.

Claims 5 and 16

Claim 5 depends on claim 3 and is patentable over the combination of WYATT and MUELLER for similar reasons. Claim 5 further recites that the "action carried out by said processing software comprises displaying on a computer monitor a representation of the document defined by the data file". The Examiner cites WYATT (col. 10, lines 6-29) as disclosing the additional limitations of claim 5, however

this section of WYATT teaches only that when a client computer receives a data file from a server computer, the server sends a message to the client computer containing some information. Nothing in this section of WYATT says anything about displaying a document represented by a received print file when the print file contains an embedded license. WYATT does not discuss print files or displaying documents.

Claim 16 is distinguishable over the combination of WYATT and MULLER for reasons generally similar to those discussed above in connection with claim 5.

Claims 6 and 17

Claim 6 depends on claim 3 and is patentable over the combination of WYATT and MUELLER for similar reasons. Claim 6 further recites that the "action carried out by said processing software comprises causing said printer to print said document". The Examiner cites WYATT (col. 15, lines 40-60) as disclosing the additional limitations of claim 6, however the cited section of WYATT describes only a conventional computer system having a printer and mentions nothing at all about printing documents defined by a transmitted data file.

Claim 17 is distinguishable over the combination of WYATT and MULLER for reasons generally similar to those discussed above in connection with claim 6.

Claims 7 and 18

Claim 7 depends on claim 1 and is patentable over the combination of WYATT and MUELLER for similar reasons. Claim 7 further recites that the "data file defines a sound and wherein said action carried out by said processing software comprises a initiating said sound". The Examiner cites MUELLER (col. 2, lines 30-40) as disclosing the additional limitations of claim 7, however while this section of MUELLER talks about "applets" and "servlets" running on client and server computers, it mentions nothing at all about processing software that initiates a sound defined by a received data file when the data file contains a license stamp identifying a licensed source as recited in claim 7.

Claim 18 is distinguishable over the combination of WYATT and MULLER for reasons generally similar to those discussed above in connection with claim 7.

Claims 8 and 19

Claim 8 depends on claim 1 and is patentable over the combination of WYATT and MUELLER for similar reasons. Claim 8 further recites that the "data file defines a video image and wherein the action carried out by said processing software comprises initiating a display of said video image" The Examiner cites MUELLER (col. 2, lines 55-65) as disclosing the additional limitations of claim 8, however this section of MUELLER talks about the use of Java to develop applets and provides no teaching with respect to software for displaying video images defined by a data file only when the data file includes an embedded license stamp identifying the file as being from a licensed source.

Claim 19 is distinguishable over the combination of WYATT and MULLER for reasons generally similar to those discussed above in connection with claim 8.

Claims 11 and 22

Claim 11 depends on claim 1 and is patentable over the combination of WYATT and MUELLER for similar reasons. Claim 11 further recites that the "license stamping means includes a processing option code within said license stamp embedded within said data file, and wherein the option code influences the nature of the output the processing software produces when processing the data file." The Examiner cites WYATT (col. 8, line 4-18) as disclosing the additional limitations of claim 11, however this section of WYATT teaches only that processing software looks at data embedded in a file to determine whether the processing software has the right to access other data in the file. WYATT does not teach including an option code in a license stamp embedded in a data file that some how influences the <u>nature</u> of the output processing software produces when processing the data file.

Claim 22 is distinguishable over the combination of WYATT and MULLER for reasons generally similar to those discussed above in connection with claim 11.

Claims 23-26 are rejected under 35 USC 102(e) as being anticipated by WYATT. The Examiner is respectfully requested to withdraw this rejection of the claims (as amended) for the reasons stated below.

Claims 23 and 26

The Examiner cites WYATT (col. 1, line 54 through col. 2, line 55) as disclosing the limitations of claim 23, however this section of WYATT fails to teach the recited "third means for embedding [an] encoded license in the data file, and for forwarding said data file with the encoded license embedded therein to said second means, such that said encoded license indicates said data file as having been forwarded by said third means." WYATT teaches wrapping a data file so that it cannot be accessed by software running on an unlicensed computer and teaches including a "first digital identifier" in the wrapped data file. But the first digital identifier does not identify the source of the data file, it identifies the target system authorized to receive the file. This difference renders claim 23 patentably distinct over WYATT.

Claim 24

Claim 24 depends on claim 23 and is patentable over the combination of WYATT and MUELLER for similar reasons. The Examiner cites WYATT (col. 1, line 54 through col. 2, line 55) as disclosing the additional limitations of claim 24, however this section of WYATT fails to teach that the "data file provided by said first means is a print file suitable as input to said printer for instructing said printer to print a document". This section of WYATT teaches that a receiving computer cannot access a transmitted file without first unwrapping it. Nothing in the cited section of WYATT or anywhere else in WYATT suggests that a transmitted file containing a license stamp can directly instruct a printer to print a document.

Claim 24 further recites that "the third means processes said data file by displaying an image of said document and by transmitting said data file as input to said printer such that said printer prints said document in response to said print file." Nothing in the cited section of WYATT or anywhere else in WYATT suggests generating a display of a document represented by a printer file.

Claim 25

Claim 25 depends on claim 23 and is patentable over the combination of WYATT and MUELLER for similar reasons. The Examiner cites WYATT (col. 15, lines 40-60) as disclosing the additional limitations of claim 25, however this section of WYATT fails to teach embedding an "encoded license into the data file in such a way that the printer ignores the encoded license when printing said document" as recited in claim 25. The cited section of WYATT generally describes a computer having a printer but has nothing to do with embedding licenses into a print file.

In view of the foregoing argument, applicant respectfully requests claims 1-26 to be declared allowable over the cited references.

Respectfully submitted,

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Penelope Stockwell

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In re Application of

Randy L. PRAKKEN et al

Art Unit: 3621

Application No: 09/754,927

Examiner:
Cristina O. Sherr

Filed: January 4, 2001

For: EMBEDDED LICENSE DATA FILE
DISTRIBUTION AND PROCESSING SYSTEM

APPENDIX OF CLAIMS

1. For a data file distribution and processing system including server software running on a source computer for sending data files to a destination computer via a network link between the source computer and the destination computer, and including processing software running on the destination computer for processing each data file forwarded thereto from said server software to carry out an action, a method for preventing the processing software running on the destination computer from processing data files forwarded to the destination computer other than from the server software, the method comprising the steps of:

including within the server software running on the source computer license stamping means for embedding a license stamp into each data file before the server software forwards the data file to said destination computer via said network link; and

adapting said processing software executed by said destination computer so that it processes each received data file to carry out said action only when the received data file contains the embedded license stamp, wherein the license stamp embedded in the data file indicates that the data file was forwarded by licensed server software.

2. The method in accordance with claim 1 wherein said encoded license stamp comprises a code identifying said source computer.

3. The method in accordance with claim 1 wherein said each data file, including its embedded license stamp, is a print file defining a document in a format suitable for directly causing a printer to print said document.

4. The method in accordance with claim 3 wherein said license stamping means embeds said encoded license stamp into each data file in such a way that said printer ignores the encoded license stamp when printing said document in response to said data file.

5. The method in accordance with claim 3 wherein said action carried out by said processing software comprises displaying on a computer monitor a representation of the document defined by the data file.

6. The method in accordance with claim 3 wherein said action carried out by said processing software comprises causing said printer to print said document.

7. The method in accordance with claim 1 wherein said data file defines a sound and wherein said action carried out by said processing software comprises a initiating said sound.

8. The method in accordance with claim 1 wherein said data file defines a video image and wherein the action carried out by said processing software comprises initiating a display of said video image.

9. The method in accordance with claim 1 wherein said license stamping means also processes each said data file to determine a value of an attribute of the data file and includes

in said embedded license stamp an attribute code indicating said value of said attribute, and wherein the method further comprises the step of

adapting the processing software to process each received data file to determine a value of said attribute of each data file received, and to refrain from processing the received data file to carry out said action unless the received data file includes an embedded license stamp containing said attribute code indicating a value of said attribute matching the value of said attribute determined by said processing software.

10. The method in accordance with claim 9 wherein the data file processed by said license stamping means consists of a plurality of data bytes, each of which influences the value of said attribute determined by said license stamping means.

11. The method in accordance with claim 1

wherein said license stamping means includes a processing option code within said license stamp embedded within said data file, and

wherein the option code influences the nature of the output the processing software produces when processing the data file.

12. A data file distribution and processing system comprising:

a source computer;

a destination computer; and

network means for conveying data files from said source computer to said destination computer,

wherein said source computer executes server software for sending data files to the destination computer via said network means,

wherein said destination computer executes processing software for processing each data file forwarded thereto from said server software to carry out an action,

wherein said server software includes license stamping means for embedding a license stamp into each data file before the server software forwards the data file to said destination computer via said network means,

wherein said processing software processes each received data file to carry out said action only when the received data file contains the embedded license stamp, and

wherein the license stamp embedded in the data file indicates that the data file was forwarded by licensed server software.

13. The data file distribution and processing system in accordance with claim 12 wherein said encoded license stamp comprises a code identifying said source computer.

14. The data file distribution and processing system in accordance with claim 12 wherein each said data file, including its embedded license stamp, is a print file defining a document in a format suitable for directly causing a printer to print said document.

15. The data file distribution and processing system in accordance with claim 14 wherein said license stamping means embeds said encoded license stamp into the data file in such a way that said printer ignores the encoded license stamp when printing said document in response to said data file.

16. The data file distribution and processing system method in accordance with claim 14 wherein said action carried out by said processing software comprises displaying on a computer monitor a representation of the document defined by the data file.

17. The data file distribution and processing system in accordance with claim 16 wherein said action carried out by said

processing software comprises causing said printer to print said document.

18. The data file distribution and processing system in accordance with claim 12 wherein said data file defines a sound and wherein said action carried out by said processing software comprises a initiating said sound.

19. The data file distribution and processing system in accordance with claim 12 wherein said data file defines a video image and wherein the action carried out by said processing software comprises initiating a display of said video image.

20. The data file distribution and processing system in accordance with claim 12 wherein said license stamping means also processes each said data file to determine a value of an attribute of the data file and includes in said embedded license stamp an attribute code indicating said value of said attribute, and wherein the method further comprises the step of

adapting the processing software to process each received data file to determine a value of said attribute of each data file received, and to refrain from processing the received data file to carry out said action unless the received data file includes an embedded license stamp containing said attribute code indicating a value of said attribute matching the value of said attribute determined by said processing software.

21. The data file distribution and processing system in accordance with claim 20 wherein the data file processed by said license stamping means consists of a plurality of data bytes, each of which influences the value of said attribute determined by said license stamping means.

22. The data file distribution and processing system in accordance with claim 12

wherein said license stamping means includes a processing option code within said license stamp embedded within said data file, and

wherein the option code influences the nature of the output the processing software produces when processing the data file.

23. A data file distribution and processing system comprising:

first means for providing a data file;

second means for receiving the data file, for checking the data file to determine whether the data file contains an encoded license, and for thereafter processing the data file only when the data file contains the encoded license; and

third means for receiving the data file provided by said first means, for embedding said encoded license in the data file, and for forwarding said data file with the encoded license embedded therein to said second means, such that said encoded license indicates said data file as having been forwarded by said third means.

24. The data file distribution and processing system in accordance with claim 23 further comprising a printer,

wherein said data file provided by said first means is a print file suitable as input to said printer for instructing said printer to print a document, and

wherein said third means processes said data file by displaying an image of said document and by transmitting said data file as input to said printer such that said printer prints said document in response to said print file.

25. The data file distribution and processing system in accordance with claim 23 wherein said second means embeds said encoded license into the data file in such a way that the printer ignores the encoded license when printing said document.

26. The data file distribution and processing system in accordance with claim 23 wherein said embedded license includes a code identifying a licensee.